

Vessel Discharge Stakeholders Meeting

College of the Atlantic
Gates Hall Auditorium
Bar Harbor ME
August 25, 2003
1:30 p.m. - 4:30 p.m.

Meeting Summary

Welcome – Rep. Ted Koffman

Rep. Koffman welcomed the group to the College of the Atlantic. He thanked everyone for coming and for being willing to participate in the stakeholder process.

Introductions - Name and affiliation

Opening Remarks – Hetty Richardson

Hetty gave a brief overview of the first meeting of the stakeholders group that was held in Portland on July 24, 2003. She also reviewed the agenda for today's meeting.

Working agreements – David Sanderson

David reviewed the working agreements/guidelines that were defined at the July 24, 2003 meeting. These working agreements are proposed to make the stakeholder meeting process proceed smoothly and efficiently:

- Balance advocacy with inquiry
- Consensus is not required
- Open discussion
- Frequent check-ins with the group
- Off-line conversations are fine
- One person speaks at a time

Presentation. What are the current problems in Maine and are vessels causing them? – Pam Parker

Pam reviewed a handout that was given to each of the participants regarding marine water quality. Pam noted that it is very difficult to identify the source(s) of pollutants. There is not a lot of good data on which to base where specific pollutants come from.

Bacterial contamination is widespread along the coast but is mainly in harbors or in developed or urban areas.

A 1996 study indicated that 75% of test sites were at 85% or better dissolved oxygen saturation. Several notable exceptions are in areas of Casco Bay and other smaller water bodies.

In general, the waters sampled in 1996 did not reveal highly enriched conditions for nitrogen or phosphorus compounds. There may be more current data, but it would most likely be very localized.

Why is the staff recommending some increased regulation and what are the main tools? – Hetty Richardson

Increased regulation

Staff is recommending some increased regulation at this time because, even though there is not concrete data to show that vessels are a major contributor to coastal water quality problems, it is better to be proactive now than to be reactive at some point in the future if it is found that vessels are contributing to water quality issues.

At this time, discharge standards for those vessels with Marine Sanitation Devices (MSDs) are less than for land dischargers.

Main Tools

Hetty briefly reviewed the following options:

BLACKWATER (sewage)

NDZ areas

*OPTION 1. Follow Chapter 655.

Complete the requirements provided in PL 2001, Ch. 655, in order to apply to EPA for designation of "no discharge zones" (NDZs) for sewage by January 15, 2005.

Note: DEP staff will present one approach to designating these areas on 8/25.

OPTION 2. Apply early to EPA, in part.

Apply for some part of the coast ahead of the schedule set in Chapter 655.

Apply for the remaining NDZs on the schedule in Chapter 655.

Outside NDZ areas (if any)

*OPTION 1. Prohibit discharges from larger passenger vessels unless licensed.

Recognize that state law (38 MRSA 413) currently prohibits the discharge of sewage into Maine waters without a waste discharge license. License larger passenger vessels that will discharge, consistent with existing state law. Have DEP establish standards in a general permit and/or individual permits, for the larger passenger vessels.

Notes:

Options 1 and 2 (outside NDZ areas) raise significant federal preemption issues. If employed, it would be advisable to seek a supporting change in federal law.

Fees would need to be charged to support administration of these additional licenses. It is unclear whether additional staff would be required at this point.

OPTION 2. Require provision of information as a supplement to Option 1, or alone. Create a "registration system" that requires a class or classes of vessels to register and provide specified information if the vessels will be in Maine waters, regardless of whether the vessels intend to discharge.

OPTION 3. Create standards outside of, and different from, those that might apply through the existing waste discharge licensing system.

Create a "registration system" that requires a class or classes of vessels to register and provide specified information, regardless of whether they

intend to discharge within State waters -- plus performance, reporting and monitoring standards (similar to the Alaska law).

All areas

Require the larger passenger vessels to report blackwater spills to DEP.

Notes: ICCL voluntary guidelines provide for no discharge within 4 miles from shore; or such other distance as agreed to with authorities having jurisdiction or provided for by local law, except in an emergency, or where geographically limited (exception for advanced wastewater treatment systems). If/when MARPOL Annex IV standard takes effect for U.S. vessels, it would prohibit discharge within 4 miles for certain oceangoing vessels.

GRAYWATER

NDZ areas

*OPTION 1. Prohibit discharges of graywater from the larger passenger vessels within federal NDZs.

OPTION 2. Prohibit discharges from larger passenger vessels unless licensed. Recognize that discharges are prohibited without a license under existing state law. License larger passenger vessels that will discharge, consistent with existing state law. Have DEP establish standards in a general permit and/or individual permits, for the larger passenger vessels

Outside NDZ areas (if any)

*OPTION 1. Prohibit discharges from larger passenger vessels unless licensed. Recognize that discharges are prohibited without a license under existing state law. License larger passenger vessels that will discharge consistent with existing state law. Have DEP establish standards in a general permit and/or individual permits, for the larger passenger vessels.

OPTION 2 and 3. Same as Options 2 and 3 under Blackwater, Outside NDZ areas (if any).

All areas

Require the larger passenger vessels to report graywater spills to DEP.

Notes:

Option 1 and 2 may create some preemption issues, although not as significant as those involved with regulating blackwater discharges. Fees would need to be charged to support administration of these additional licenses. It is unclear whether additional staff would be required at this point.

Note: ICCL voluntary guidelines provide for no discharge within 4 miles from shore; or such other distance as agreed to with authorities having jurisdiction or provided for by local law, except in an emergency, or where geographically limited (exception made for advanced wastewater treatment systems).

OIL

No suggested changes to current statute or rule at this time.

No discharge of oil contaminated effluent is currently permitted within 3 miles without a license meeting specified statutory criteria. Maine's existing statutory standard is stricter than federal law, and more work

needs to be done to provide education and enforcement of the standard. This is unlikely to occur within existing resources.

HAZARDOUS WASTE

No suggested changes to current statute or rule at this time. There is an existing statutory prohibition on discharge to waters of the State, with reporting requirements.

Notes: The "Alaska Law" would require that the owner or operator of a commercial passenger vessel provide the department with plan describing policies and procedures for disposing of hazardous waste or substances.

AIR

No suggested changes to current statute or rule at this time. Little room for state regulation, and no proposal available from DEP at this time.

SOLID WASTE

No suggested changes to current statute or rule at this time. There is an existing prohibiting against putting refuse in the water at 38 MRSA 417(3).

Notes: The "Alaska Law" would require that the owner or operator of a commercial passenger vessel provide the department with plan describing policies and procedures for disposing of (non-hazardous) solid waste. This plan may describe procedures for off-loading within state or coastal waters. In Maine, disposal within coastal waters is currently prohibited.

INVASIVE SPECIES

No suggested changes to current statute or rule at this time in this rapidly developing area, except for a recommendation that the membership of Maine's Invasive Species Task Force be expanded to include the Department of Marine Resources. DEP should follow the development of (1) mandatory ballast standards at the federal level, and (2) recognition of invasive species as a pollutant under the Clean Water Act, and propose changes in the future if warranted.

RESPONSES:

Rate of enforcement is crucial – whichever way we go – NDZs or not

DEP's report to the Legislature should include a proposed enforcement system. Let the Legislature deal with the implications of that.

NDZs: How should the boundaries of the waters to be designated as federal NDZs be determined? – Pam Parker

Pam reviewed what a no discharge zone (NDZ) is. A No discharge zone can for blackwater can only be designated by the Environmental Protection Agency (EPA) a federal agency. The Maine Department of Environmental Protection (DEP) can apply to the EPA for designation of waters as an NDZ. As part of this application process DEP would be required to certify to EPA that there are adequate pump-out facilities. EPA has indicated that 1 pump-out station per 300 boats is adequate. This requirement looks only at recreational boats. DEP

would not be required to include information on whether or not there are adequate pump-out facilities for commercial vessels.

RESPONSES:

Why not include demand as criterion?

Federal requirements for NDZs are based on the number of pump-out stations and don't really apply to large passenger vessels.

Federal regulations already define commercial passenger vessel – see Coast Guard matrix

The resolve requires us to speak to Casco Bay

Why not the whole coast?

Looking at demand, how can a statewide NDZ be justified?

Prefer to look at bays at a minimum, not harbors. Criteria are demand and ecological impact

Schedule for identifying NDZs. – Pam Parker

Pam is required to submit a report to the Legislature by January 2004 with a list of waters that DEP wishes to have classified as no discharge zones. She is then required to submit application to EPA for those waters that have been approved by the Legislature by January 2005.

RESPONSES:

Focus on Casco Bay, Frenchman's Bay and Penobscot Bay.

Casco Bay needs to be designated as a NDZ and should be applied for early. This way we can test the system with just one application.

A discrete, focused approach could be most successful.

It may be easier politically to do limited geographical areas.

What happens if we create NDZs and that doesn't work out?

If there is no data prior to creation of NDZs, how do we decide if it is working?

Should Maine create state NDZs for graywater?

How could such a "state" NDZ differ from a "federal" NDZ?

Listing of pros/cons and discussion by group.

The group listed pros and cons of having NDZs.

The pros were seen as:

- Natural resource protection

- Prevention of further deterioration of water quality

- Improved public health

- Makes any discharge illegal, better for monitoring

- Only tool for us in Maine to have a say about our water

The cons were seen as:

- Could be a dis-incentive to cruise ships equipped to treat blackwater
- Very broad hit – do when all else has failed
- Takes large enforcement resource
- Lack of baseline data
- Cost to the infrastructure
- Already have backlog to deal with – municipal waste systems

Meeting reflections/Questions & Comments

More people whose livelihood depends on the water should be at the table.

Is there a need for regulation, will we be solving a problem?

We shouldn't wait to act until there is a problem.

The map handout helped to put things in focus. We can see important areas of our coast.

It would be nice to have information from Rhode Island as to why they decided to have the entire state certified as a NDZ.

Both Rep. Koffman and Sen. Sawyer thanked all parties for attending and participating.

Remember the long-range goals.